

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Pro Build North, LLC, Petitioner-Appellant, v. Kossuth County Board of Review, Respondent-Appellee.	ORDER Docket No. 09-55-0245 Parcel No. 22-01-353-003 Docket No. 09-55-0246 Parcel No. 22-01-353-005 Docket No. 09-55-0247 Parcel No. 22-01-354-002
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On August 12, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The hearing was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Pro Build North, LLC, designated Max Weber of Associated Real Estate Appraisers, Madison, Wisconsin as its legal representative. He did not participate in the hearing. The Kossuth County Board of Review designated County Attorney Todd M. Holmes to represent it and appeared by telephone. A digital recording of the proceedings was made. The Appeal Board now having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Pro Build North, LLC (Pro Build), lessee of three commercial parcels operating as a lumberyard located in Algona, Iowa, appeals from the Board of Review decision reassessing its property. The properties are collectively subject to a ten-year lease.

Parcel 22-01-354-002, located at 201 S Lantry, was classified as commercial with a total assessed value of \$88,539, allocated \$34,690 to land value and \$53,849 to improvement value in the January 1, 2009, assessment. According to the property record card, it is improved by a 1568 square-

foot lumber storage shed, a 3808 square-foot lumber storage shed, and a 3040 square-foot metal pole warehouse, concrete coal bins, and fencing.

Parcel 22-01-353-003, located at 219 S Phillips, was classified as commercial with a total assessed value of \$99,215, allocated \$36,848 to land value and \$62,367 to improvement value in the January 1, 2009, assessment. According to the property record card, it is improved by a 13,002 square-foot lumber storage shed with a 2062 square-foot addition and 3377 square feet of concrete paving.

Parcel 22-01-353-005, located at 205 S Phillips, was classified as commercial with a total assessment value of \$586,186, allocated \$51,512 to land value and \$534,674 to improvement value in the January 1, 2009, assessment. It is improved by a 12,000 square-foot metal retail store, an attached 200 square-foot portico, and 17,000 square feet of concrete paving.

Pro Build protested to the Board of Review on the grounds that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b); and there was an error in the assessment under section 441.37(1)(d). It sought a reduction from the combined assessed value for the three parcels from \$767,182 to \$517,000. The Board of Review denied the petition for parcel 22-10-354-002. The Board of Review reduced the assessment of parcel 22-01-353-005 from \$586,186 to \$476,983 and parcel 22-01-353-003 from \$99,215 to \$92,407.

Pro Build then filed its appeal with this Board seeking a reduction in total assessed value of the three parcels to \$517,000. It claims that parcel 22-01-354-002 should have a total assessed value of \$68,530, allocated \$27,254 to land value and \$41,276 to improvement value; that parcel 22-01-353-003 should have a total assessed value of \$72,626, allocated \$28,955 to land value and \$43,671 improvement value; and that parcel 22-01-353-005 should have a total assessed value of \$375,844, allocated \$40,470 to land and \$335,374 in improvement value. On the appeal form, Pro Build checked the box indicating it claimed an error in the assessment; however, based on their statement they believe the assessed value should be lowered to reflect the market value of the property.

Pro Build did not participate at hearing or supply any additional evidence to this Board. Max Weber, on behalf of Pro Build, submitted a letter dated April 24, 2009, to the Board of Review. In this letter, he makes the contention that due to the long-term lease in place, a prospective buyer would make their decision to purchase the property solely on the income stream.

In Weber's opinion the lumberyard is a special use property and, therefore, no market sales comparables are available. He stated he did not do a cost approach, but if one was offered an adjustment would have to be made for functional obsolescence due to the presence of the subject lease. Weber utilized the same capitalization rate for 2009 that he used in 2008 to support the value of the subject property, even though he believes capitalization rates have increased since 2008.

Don Patton, former Kossuth County Assessor, testified that for the January 1, 2009, assessments his office changed from the 1998 *Iowa Appraisal Manual* to the 2008 *Iowa Appraisal Manual*, which caused the change in the assessments from 2008 to 2009. Patton stated the Board of Review adjusted parcel 22-01-353-005 because the new manual needed to be adjusted because the metal building had a 20-foot wall height that they believed overvalued the structure. Patton also testified that he discovered a recent sale of a lumberyard-type property in Harlan, Shelby County, Iowa. Patton made adjustments for land, size, and age to reflect the adjusted sales price of \$535,130. In his opinion, this sale, after adjustments, supports the assessed value.

Reviewing all the evidence, we find that Pro Build failed to show that each individual parcel is assessed for more than authorized by law. The best evidence in the record is the testimony of Don Patton. Therefore, we affirm the value set by the Kossuth County Board of Review.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act


apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Pro Build did not provide this Board with persuasive evidence that the current assessed value of the property is for more than authorized by law. Rather, the data submitted by the Board of Review is the most reliable evidence in the record. We, therefore, affirm the assessment of the subject property as determined by the Kossuth County Board of Review as of January 1, 2009.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment of the Pro Build North, LLC property located in Algona, Iowa, as set by the Kossuth County Board of Review, is affirmed.

Dated this 9 day of December, 2010.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Chair

Copies to:

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REPRESENTATIVE FOR APPELLANT

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-9</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	